

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD,)	C.A. NO. 04-11193NG
Plaintiff)	
)	
v)	
)	
TIMOTHY CALLAHAN, ET AL.)	
Defendant(s))	
)	

PLAINTIFF'S SUPPLEMENTAL REQUEST FOR JURY INSTRUCTIONS
RE: PROXIMATE CAUSE

If you find that the Defendants violated the Plaintiff's civil rights you should next determine whether the Defendants' violation of the Plaintiff's civil rights was a motivating factor in the criminal jury's decision to convict the Defendant. The Plaintiff is not required to prove that the violation of civil rights was the sole motivation or even the primary motivation for the jury's decision. The Plaintiff need only prove that the violation of civil rights played a motivating part in the jury's decision even though other factors may also have motivated the jury.

As used in this instruction, the violation of civil rights was a motivating factor if it played a part in the jury's decision to convict the Defendants.

However, if you find the jury's conviction of the Plaintiff was motivated by both the violation of civil rights and other lawful reasons, you must consider the Defendants "same decision defense". If the Defendants prove by the preponderance of evidence that the jury would have convicted the Plaintiff even if the Plaintiff's civil rights had not been violated, then your

verdict must be for the Defendant on this claim.

COMMENT

The Third Circuit Model Civil Jury Instructions §7.1 forms the basis for this requested jury instruction. Plaintiff has filed a Memorandum of Law in support of this requested instruction.

Respectfully submitted,

By His Attorneys,

/s/ Michael Reilly

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